

1 JOSEPH H. HUNT
Assistant Attorney General

2 MICHELLE BENNETT
3 Assistant Branch Director
4 Civil Division

5 REBECCA M. KOPPLIN
(CA Bar # 313970)
6 BENJAMIN T. TAKEMOTO
(CA Bar # 308075)
7 Trial Attorney
8 United States Department of Justice
9 Civil Division, Federal Programs Branch
10 P.O. Box 883, Ben Franklin Station
Washington, DC 20044
Tel: (202) 532-4252
Fax: (202) 616-8460
E-mail: benjamin.takemoto@usdoj.gov

11 *Attorneys for Defendants*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 STATE OF CALIFORNIA,

16 Plaintiff,

17 v.

18
19 ALEX M. AZAR II, *in his official capacity as*
20 *Secretary of Health and Human Services,*
21 UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, and
DOES 1–100,

22 Defendants.
23

Case No. 3:19-cv-2769-WHA

**DEFENDANTS’ UNOPPOSED
ADMINISTRATIVE MOTION TO
ENLARGE TIME TO FILE
RESPONSE TO THE COMPLAINT**

Hon. William Alsup
Hearing: July 17, 2019, 8:00 a.m.

Phillip Burton Federal Building & United
States Courthouse, Courtroom 12, 19th
Floor,
450 Golden Gate Ave., San Francisco, CA
94102

1 Defendants respectfully request, pursuant to Rules 6-3 and 7-11 of the Local Rules of Practice in
2 Civil Proceedings before the United States District Court for the Northern District of California, that the
3 Court enlarge the time for Defendants to file their response to the complaint until July 27, 2019, sixty days
4 after service was effected. At present, Defendants' response with respect to Plaintiff's Freedom of
5 Information Act claim is due today, June 27, 2019.

6 Defendants' request is warranted in light of counsel's significant current litigation obligations. In
7 addition to other active matters in which counsel for Defendants are involved, they are currently preparing
8 a consolidated opposition to the three pending preliminary injunction motions before this Court that are
9 due on July 1, 2019, along with oppositions to preliminary injunction motions that have been filed in the
10 United States District Courts for the Eastern District of Washington (due July 8, 2019), the Southern
11 District of New York (due June 28, 2019), and the District of Maryland (due July 1, 2019). Furthermore,
12 it would be more straightforward for the Court and the parties for Defendants to file one response to the
13 complaint, addressing all of Plaintiff's claims, sixty days after service was effected.

14 Counsel for Plaintiff has indicated to the undersigned that "California does not oppose Defendants'
15 request for an enlargement of time so that Defendants' answer shall be due July 27, 2019, sixty days after
16 service."

1 Defendants regret that this motion is filed on the day that their response to Plaintiff's Freedom of
2 Information Act claim is due. The undersigned had been attempting to obtain a stipulation with Plaintiff
3 to delay the response deadline until July 27, 2019. Although counsel for Plaintiff had indicated to the
4 undersigned on June 24, 2019 that "One answer sixty days after service is agreeable to California" and
5 today that it does not oppose Defendants' request, Plaintiff would not agree to file a stipulation with
6 Defendants.

7 Dated: June 27, 2019

Respectfully Submitted,

8 JOSEPH H. HUNT
9 Assistant Attorney General

10 MICHELLE BENNETT
11 Assistant Branch Director
12 Civil Division

13 /s/ Benjamin T. Takemoto
14 REBECCA M. KOPPLIN
(CA Bar # 313970)
15 BENJAMIN T. TAKEMOTO
(CA Bar # 308075)
16 Trial Attorney
United States Department of Justice
17 Civil Division, Federal Programs Branch
P.O. Box 883, Ben Franklin Station
18 Washington, DC 20044
Tel: (202) 532-4252
Fax: (202) 616-8460
E-mail: benjamin.takemoto@usdoj.gov

19 *Attorneys for Defendants*
20
21
22
23
24
25
26
27
28

1 JOSEPH H. HUNT
Assistant Attorney General

2 MICHELLE BENNETT
3 Assistant Branch Director
4 Civil Division

5 REBECCA M. KOPPLIN
(CA Bar # 313970)
6 BENJAMIN T. TAKEMOTO
(CA Bar # 308075)
Trial Attorneys
7 United States Department of Justice
Civil Division, Federal Programs Branch
8 P.O. Box 883, Ben Franklin Station
Washington, DC 20044
9 Tel: (202) 532-4252
Fax: (202) 616-8460
10 E-mail: benjamin.takemoto@usdoj.gov

11 *Attorneys for Defendants*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 STATE OF CALIFORNIA,

16 Plaintiff,

17 v.

18
19 ALEX M. AZAR II, *in his official capacity as*
Secretary of Health and Human Services,
20 UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, and
21 DOES 1-100,

22 Defendants.
23

Case No. 3:19-cv-2769-WHA

**DECLARATION OF BENJAMIN T.
TAKEMOTO IN SUPPORT OF
DEFENDANTS' ADMINISTRATIVE
MOTION TO ENLARGE TIME TO
FILE RESPONSE TO COMPLAINT**

Hon. William Alsup
Hearing: July 17, 2019, 8:00 a.m.

Phillip Burton Federal Building & United
States Courthouse, Courtroom 12, 19th
Floor,
450 Golden Gate Ave., San Francisco, CA
94102

1 I, Benjamin T. Takemoto, declare as follows:

- 2 1. I am a trial attorney at the Federal Programs Branch of the Civil Division of the United States
3 Department of Justice. I represent Defendants in this case.
- 4 2. The statements made herein are based on my personal knowledge and on information made
5 available to me in the course of my representation of Defendants.
- 6 3. Plaintiff effected service on the United States Attorney's Office on May 28, 2019.
- 7 4. Defendants' response to the complaint with respect to Plaintiff's Freedom of Information Act
8 claim is due today, June 27, 2019.
- 9 5. Defendants' response to the complaint with respect to Plaintiff's remaining claims is due on July
10 27, 2019.
- 11 6. Defendants request a thirty day enlargement of time to file a single response to the complaint,
12 addressing all of Plaintiff's claims, on July 27, 2019 for several reasons. In addition to other active
13 matters in which counsel for Defendants are involved, they are currently preparing a consolidated
14 opposition to the three pending preliminary injunction motions before this Court that are due on
15 July 1, 2019, along with oppositions to preliminary injunction motions that have been filed in the
16 United States District Courts for the Eastern District of Washington (due July 8, 2019), the
17 Southern District of New York (due June 28, 2019), and the District of Maryland (due July 1,
18 2019). Furthermore, it would be more straightforward for the Court and the parties for Defendants
19 to file one response to the complaint sixty days after service was effected.
- 20 7. Defendants would be prejudiced if they were required to file their response to Plaintiff's Freedom
21 of Information Act claim today because it would detract from these other obligations.
- 22 8. This is Defendants' first request to enlarge time to file their response to the complaint.
- 23 9. The undersigned has attempted to obtain a stipulation to delay the response deadline until July 27,
24 2019. On June 24, 2019, counsel for Plaintiff indicated to the undersigned that "One answer sixty
25 days after service is agreeable to California." On June 25, 2019, the undersigned sent counsel for
26 Plaintiff a draft stipulation delaying the deadline to respond to Plaintiff's Freedom of Information
27 Act claim. In response, that same day, counsel for Plaintiff asked for "an update on the status of
28 our discussion related to the scheduling on the preliminary injunction motions" and indicated, "We

1 thought that the discussion regarding the filing of the answer was part of a larger stipulation that
2 addressed the preliminary injunction motions also.” Later that day, the undersigned sent counsel
3 for Plaintiff the proposal outlined in Defendants’ June 25, 2019 administrative motion and further
4 inquired whether Plaintiff agreed to the draft answer stipulation. The undersigned inquired about
5 Plaintiff’s position again on June 26 and 27, 2019. On June 27, 2019, counsel for Plaintiff indicated
6 that Plaintiff would not agree to a stipulation and that “California does not oppose Defendants’
7 request for an enlargement of time so that Defendants’ answer shall be due July 27, 2019, sixty
8 days after service.”

9 10. The only effect that the requested time modification would have on the schedule of the case is to
10 delay Defendants’ response deadline to Plaintiff’s Freedom of Information Act claim by thirty
11 days.

12 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
13 correct.

14 Executed on June 27, 2019.

/s/ Benjamin T. Takemoto
BENJAMIN T. TAKEMOTO

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

STATE OF CALIFORNIA,

Plaintiff,

v.

ALEX M. AZAR II, *in his official capacity as
Secretary of Health and Human Services,*
UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, and
DOES 1–100,

Defendants.

No. C 19-02769 WHA

**[PROPOSED] ORDER ENLARGING
TIME FOR DEFENDANTS TO FILE
RESPONSE TO THE COMPLAINT**

Defendants’ administrative motion to enlarge time to file their response to the complaint is **GRANTED**. Defendants’ response, including with respect to Plaintiff’s Freedom of Information Act claim, shall be due **JULY 27, 2019**.

IT IS SO ORDERED.

Dated: _____

WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE